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U.S. COMMODITY EXCHANGE ADMINISTRA-
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RULES OF PRACTICE UNDER THE COMMO-
dity exchange act. An advance print
of Chapt. I, Title 17, of the Code
of federal regulations.

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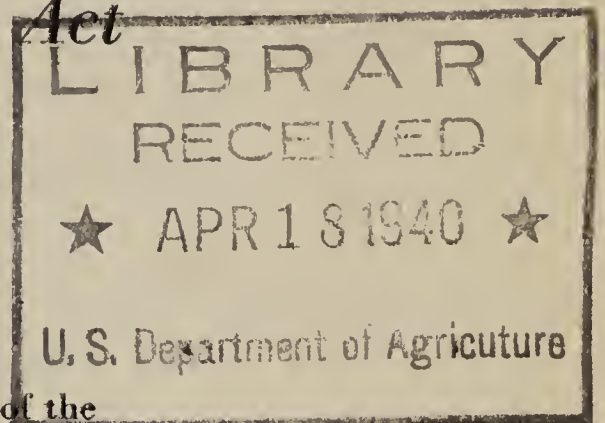
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UNITED STATES DEPARTMENT OF AGRICULTURE
COMMODITY EXCHANGE ADMINISTRATION
WASHINGTON, D. C.

RULES OF PRACTICE

UNDER THE

Commodity Exchange Act



An advance print of Chapter I, Title 17, of the
Code of Federal Regulations

Effective June 1, 1938

Part 0

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

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CHAPTER I—COMMODITY EXCHANGE ADMINISTRATION

DEPARTMENT OF AGRICULTURE

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EDITORIAL NOTE: For list of abbreviations used in this chapter, see note to § 0.0.

PART 0—RULES OF PRACTICE

Sec.	Sec.
0.0 Proceedings governed.	0.6 Department of Agriculture represented by attorney.
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Section 0.0 Proceedings governed. These rules of practice shall govern proceedings under the Commodity Exchange Act before the Secretary of Agriculture and the Commodity Exchange Commission.* [Order, CEC, Sec. Agric., Nov. 18, 1936]

*§§ 0.0 to 0.11, inclusive, issued under the authority contained in sec. 6, 42 Stat. 1001, sec. 8, 49 Stat. 1498; 7 U.S.C. 8, 9, 15, and Sup.

ABBREVIATIONS: The following abbreviations are used in this chapter:

CEC. Commodity Exchange Commission.

R. & Regs. Rules and regulations of the Secretary of Agriculture under the Commodity Exchange Act. Articles I and II, July 1937; articles III to VII, Aug. 1937.

Sec. Agric. Secretary of Agriculture.

0.1 Issuance or filing of complaint; appearance of respondent. Any complaint issued under subdivision (a) of section 6, subdivision (b) of section 6, or section 6b of the Commodity Exchange Act

or filed under subdivision (1) of section 6a of the Act (42 Stat. 1001, 49 Stat. 1499, 1500; 7 U.S.C. 8, 9, 10a, 13a, and Sup.) shall state, briefly and clearly, the facts complained of. A person against whom a complaint is issued or filed shall be designated as the respondent. Any complaint issued under subdivision (a) of section 6, subdivision (b) of section 6, or section 6b shall contain or be accompanied by an order directing the respondent to appear before the Commodity Exchange Commission or the Secretary of Agriculture, as the case may be, or before a referee to be designated by the Secretary of Agriculture, at a time and place which shall be fixed by the Secretary of Agriculture in the order or subsequently, and to show cause why such order as may be authorized by the statute should not be entered against the respondent.*†

†In §§ 0.1 to 0.11, inclusive, the numbers to the right of the decimal point correspond with the respective paragraph numbers in the Order promulgating rules of practice to govern proceedings under the Commodity Exchange Act, Commodity Exchange Commission and Secretary of Agriculture, Nov. 18, 1936.

0.2 Assignment of docket or file number. The complaint shall be assigned a docket or file number and the proceedings had thereunder shall thereafter be referred to by such number.*†

0.3 Service of complaint. The complaint shall be served upon the respondent by an employee of the Department of Agriculture or by registered mail, return receipt requested. When personal service is attempted upon the respondent, such service shall be deemed sufficient if a copy of the complaint is placed in the hands of the respondent or a copy of the complaint is left with any agent or employee of respondent at respondent's regular place of business or a copy of the complaint is left with any agent, employee, or member of respondent's family at respondent's residence. If the respondent is a board of trade, association, or corporation, service shall be had upon the president, secretary, treasurer, or statutory agent of the board, association, or corporation in the manner herein described.*†

0.4 Complaint by board of trade against cooperative association or corporation. Any complaint by a board of trade seeking to exclude a cooperative association or corporation from membership in or privileges on such board of trade pursuant to the provisions of subdivision (1) of section 6a of the Act (49 Stat. 1499; 7 U.S.C., Sup., 10a) shall be filed in quadruplicate with the Secretary of Agriculture. The Secretary of Agriculture shall transmit copies of the complaint to the Attorney General and the Secretary of Commerce and shall serve a copy upon the corporation or association against which the complaint is filed, as provided in § 0.3.

If the association or corporation wishes to deny or explain any of the allegations contained in the complaint, it may file with the Secretary of Agriculture, within 10 days after the receipt of the complaint, an answer in quadruplicate, the original being signed by the president, secretary, treasurer, or attorney of the respondent. The answer shall be so drawn as fully and completely to state the nature of the defense and shall admit or deny specifically and in

detail each material and relevant allegation of the complaint. Copies of the answer shall be forwarded by the Secretary of Agriculture to the Attorney General and the Secretary of Commerce and to the complainant.

The Secretary of Agriculture shall set a time and place for a hearing upon any complaint filed with the Secretary pursuant to subdivision (1) of section 6a of the Act.*†

0.5 Hearings. The Secretary of Agriculture may designate an employee of the Department of Agriculture as referee to conduct any hearing held under the act. In the case of proceedings under subdivision (a) of section 6, subdivision (1) of section 6a, or section 6b of the Act, (42 Stat. 1001, 49 Stat. 1499, 1500; 7 U.S.C. 8, 10a, 13a, and Sup.) the designation of the referee shall be made by the Secretary of Agriculture for and on behalf of the Commission.

The referee may, in accordance with the rules of evidence applicable to administrative proceedings, admit or exclude any evidence presented and may limit the scope of any evidence admitted.

Parties may appear in person or by counsel. No person other than a party to the proceeding or his counsel shall participate in any proceeding until the officer conducting the proceeding has determined that such person has a substantial interest therein and has ordered that such person's appearance be entered in the record. All persons who appear at the hearing must conform to the standards of ethical conduct required of practitioners before the courts of the United States. The party instituting a proceeding shall proceed first at the hearing.

The testimony of the witnesses at the hearing shall be upon oath or affirmation administered by the referee.

Copies of the records of any of the executive departments or independent establishments of the United States Government, certified under the seal of such department or establishment, shall be admissible to the same extent that the original records would be admissible.

The deposition of any witness, taken after reasonable notice to the opposite party and at a time and place and before a person designated for the purpose by the Secretary of Agriculture, shall be admitted if the evidence is otherwise admissible.

Affidavits, if relevant and material, may, in the discretion of the referee, be admitted, but the Secretary of Agriculture or the Commission, as the case may be, will consider the lack of opportunity for cross-examination in determining the weight that shall be given to such evidence.

When practicable to do so, a copy of each exhibit shall be furnished to the opposing party either before or at the time of its introduction.

Judicial notice will be taken of such matters as are noticed by the courts of the United States.

If a party objects to the admission of any evidence offered against him or the rejection of any evidence offered by him or to the limitation of the scope of any evidence introduced by him, he shall state

*For statutory citation, see note to § 0.0.

†For source citation, see note to § 0.1.

the grounds of such objection. If the objection is overruled, he may take an exception.*†

0.6 Department of Agriculture represented by attorney. At a hearing held under subdivision (a) or (b) of section 6 or under section 6b of the Act, (42 Stat. 1001, 49 Stat. 1500; 7 U.S.C. 8, 9, 13a, and Sup.) the Department of Agriculture shall be represented by an attorney designated by the Solicitor of the Department.*†

0.7 Filing of briefs. At the conclusion of the hearing, the referee shall announce the period of time within which briefs may be filed. Parties filing briefs shall submit six copies to the Secretary of Agriculture.*†

0.8 Transmittal of transcript. As soon as practicable after the conclusion of any hearing before a referee, it shall be the duty of the referee to transmit to the Secretary of Agriculture, or to the Secretary of Agriculture acting on behalf of the Commission, a full transcript of the record of the hearing.*†

0.9 Request for oral argument. A party desiring to make an oral argument before the Secretary of Agriculture, in the case of proceedings under subdivision (b) of section 6, or before the Commission, in the case of proceedings under subdivision (a) of section 6, subdivision (1) of section 6a or section 6b of the Act, (42 Stat. 1001, 49 Stat. 1499, 1500; 7 U.S.C. 8, 9, 10a, 13a, and Sup.) shall so notify the Secretary of Agriculture prior to the final date for filing briefs.*†

0.10 Fixing of date for oral argument. In the event that a party requests an oral argument, a date for such argument shall be fixed, in the case of proceedings under subdivision (a) of section 6, subdivision (1) of section 6a, or section 6b of the Act, by the Commission, or, in the case of proceedings under subdivision (b) of section 6, by the Secretary of Agriculture (42 Stat. 1001, 49 Stat. 1499, 1500; 7 U.S.C. 8, 9, 10a, 13a, and Sup.).*†

0.11 Rehearing, reargument, reconsideration, or modification of final order. An application for rehearing, reargument, reconsideration, or modification of a final order must be made by petition filed with the Secretary of Agriculture. In the case of proceedings under subdivision (a) of section 6, subdivision (1) of section 6a or section 6b of the Act, (42 Stat. 1001, 49 Stat. 1499, 1500; 7 U.S.C. 8, 10a, 13a, and Sup.) such application shall be filed in quadruplicate. A copy of any such application filed by a party to a proceeding under subdivision (1) of section 6a shall be transmitted by the Secretary of Agriculture to the adverse party. In the event that a rehearing is granted by the Secretary of Agriculture or by the Commission, as the case may be, or a hearing is ordered upon a petition for the modification of a final order, the applicable rules of procedure, as set out herein, shall be followed.*†

*For statutory citation, see note to § 0.0.

†For source citation, see note to § 0.1.

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